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JUN 06 2008

**OFFICE OF PETITIONS**

In re Application of Sovik et al.

Application No. 08/866,607

Filing Date: May 30, 1997

Attorney Docket No. TUC9-1997-0004-US1

Decision on Petition

This is a decision on the petition filed under 37 CFR 1.137(b) on March 4, 2008. The petition is also being treated as a request under 37 CFR 1.181 for the Office to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is granted.

The petition under 37 CFR 1.137(b) is dismissed as moot.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed June 14, 1999, which set a shortened statutory period for reply of three (3) months. The above-identified application became abandoned on September 15, 1999. A Notice of Abandonment was mailed on May 3, 2000.

A petition to withdraw the holding of abandonment was filed April 24, 2007.

In the petition, petitioner contended formal drawings were filed November 12, 1999. In support of the petition, petitioner submitted a date-stamped postcard receipt, indicating that "Formal Drawings" were received on November 12, 1999. A copy of six sheets of drawings accompanies the petition.

The decision issued August 14, 2007, dismissed the petition. The decision stated that, although petitioner had proven drawings were filed on November 12, 1999, petitioner had not proven a request for a two-month extension of time was filed on the same date. Therefore, the decision dismissed the petition.

A review of the file indicates one of the copies of the request for an extension of time allegedly filed November 12, 1999, includes a date-stamp of November 12, 1999. Therefore, petitioner has proven the request for an extension of time was filed November 12, 1999.

The request for an extension of time paper incorrectly listed the application number as 08/886,607. The paper listed the correct first named inventor, title, and filing date. At the

discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

- (1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.
- (2) The papers contained sufficient information for the Office to determine the correct application number.

Both criteria above have been met. Therefore, the request for an extension of time paper will be treated as properly filed for the instant application on November 12, 1999.

Since drawings and a request for an extension of time were properly and timely filed, the application is not abandoned.

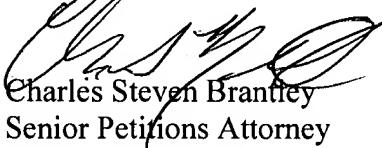
The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(b) is dismissed as moot.

A petition fee is not required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the \$1,540 petition fee has been credited to petitioner's deposit account. However, petitioner has never been charged the \$380 fee for the request for a two-month extension of time filed November 12, 1999. Therefore, \$380 has been charged to petitioner's deposit account.

The Office of Data Management will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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Office of Petitions